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09/933,914	08/20/2001	Nikolai K.N. Leung	010439	7752
23696	7590	01/06/2006	EXAMINER	
QUALCOMM, INC 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			GELIN, JEAN ALLAND	
			ART UNIT	PAPER NUMBER
			2688	

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/933,914

Applicant(s)

LEUNG ET AL.

Examiner

Jean A. Gelin.

Art Unit

2688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to the Applicant's arguments and amendments filed on November 04, 2005 in which claim 3 has been amended. Claims 1-11 are currently pending.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 3-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 3-4 are directed to signal that is not a physical embodiment. To be a statutory claim, the claimed subject matter must convey a process, machine, manufacture, or composition of matter, which are not the characteristic of a communication signal.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 3-4 are rejected under 35 U.S.C. 102(a) as being anticipated by Gagnon et al. (EP 1 024 661 A2).

Regarding claim 3, Gagnon teaches a communication signal transmitted on a carrier wave (i.e., broadcasting video over the air, col. 10, lines 45-55), the signal comprising: a broadcast session portion (i.e., broadcasting video, col. 6, lines 25-39, col. 29, line 39 to col. 31, line 57); wherein the SDP provides information for processing the broadcast session (i.e., providing information including actions to be taken on receipt of the information, col. 29, line 39 to col. 30, line 57).

Gagnon further teaches a session description protocol message (SDP message) interleaved with the broadcast session portion (i.e., actions to be taken on receipt of the information interleaves with the standard field of the SDP protocol that includes various types of information such as video/audio signals, session identifier, the name of the SDP session, list of Internet WebPages, col. 29, line 39 to col. 30, line 57).

Regarding claim 4, Gagnon further teaches wherein the signal is transmitted via a broadcast transmission channel (col. 8, line 53 to col. 9, line 11).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gagnon et al. (EP 1 024 661 A2) in view of Quick Jr. (5,673,259).

Regarding claim 1, Gagnon teaches in a wireless communication system supporting a broadcast service (i.e., system that broadcast video or multimedia data over the air, col. 10, lines 45-55), a method comprising: transmitting a broadcast session on a broadcast transmission channel (i.e., the broadcast session is video programming or multimedia data, col. 10, lines 45 to col. 11, line 17).

Gagnon further teaches "transmitting broadcast overhead information" interleaved with the broadcast session on the broadcast transmission channel (corresponding to col. 11, line 46 to col. 12, line 26, wherein the transmission of packet data, the packetized data stream includes a header that identifies the contents of data packet (audio/video programming) (i.e., the header that identifies the content is included in the broadcast signal). In another word, the header interleaved with the audio and video programming.

Gagnon does not explicitly teach wherein the broadcast overhead information provides information for processing the broadcast session.

However, the preceding limitation is known in the art of communications. Quick Jr. teaches broadcasting system overhead information wherein the information is interleaved with paging and control message on a broadcast channel; the overhead information is sent by the base station to control parameter, and a processor to process message and switch from one channel to another based on bandwidth demand (col. 4, lines 39-61, col. 11, lines 10-20, and col. 15, lines 26-44). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to implement the technique of Quick Jr. within the system of Gagnon in order that when

the bandwidth demand of the user exceeds the first threshold, the processor switches the user from the random access channel to the traffic channel.

Regarding claim 2, Gagnon in view of Tsukamoto teaches all the limitations above. Gagnon further teaches wherein the broadcast packetized data, which includes the header information is a session description protocol message containing information for processing the broadcast session, and wherein the session description protocol message is interleaved with broadcast content of the broadcast session (col. 30, line 4 to col. 31, line 57).

Regarding claims 5, 7, Gagnon teaches in a wireless communication system supporting a broadcast service (i.e., system that broadcast video or multimedia data over the air, col. 10, lines 45-55), a method comprising: accessing a broadcast session on a broadcast channel; and processing the broadcast session using the SDP message (col. 29, line 39 to col. 30, line 57).

Gagnon further teaches receiving a session description protocol (SDP) message interleaved to the broadcast session on the broadcast channel (corresponding to session description protocol (SDP) are periodically broadcast or periodically receive, col. 13, line 49 to col. 14, line 12), the standard field of the SDP protocol includes various types of information such as video/audio signals, session identifier, the name of the SDP session, list of Internet WebPages that can provide additional information, col. 29, line 39 to col. 30, line 57).

Gagnon does not explicitly teach wherein the broadcast overhead information provides information for processing the broadcast session.

However, the preceding limitation is known in the art of communications. Quick Jr. teaches broadcasting system overhead information wherein the information is interleaved with paging and control message on a broadcast channel; the overhead information is sent by the base station to control parameter, and a processor to process message and switch from one channel to another based on bandwidth demand (col. 4, lines 39-61, col. 11, lines 10-20, and col. 15, lines 26-44). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to implement the technique of Quick Jr. within the system of Gagnon in order that when the bandwidth demand of the user exceeds the first threshold, the processor switches the user from the random access channel to the traffic channel.

Regarding claim 6, Gagnon in view of Quick, Jr. teaches all the limitations above. Gagnon further teaches wherein the SDP message is interleaved with broadcast content of the broadcast session (col. 30, lines 4-32).

Regarding claim 8, Gagnon in view of Quick, Jr. teaches all the limitations above. Gagnon further teaches means for receiving header compression information (col. 29, line 39-42).

Regarding claim 9, Gagnon in view of Quick, Jr. teaches all the limitations above. Gagnon further teaches memory storage adapted to store the SDP corresponding to a plurality of broadcast sessions, wherein the SDP of each of the plurality of broadcast sessions is updated when the corresponding broadcast session is accessed (col. 29, line 39 to col. 30, line 54).

Regarding claim 10, Gagnon in view of Quick, Jr. teaches all the limitations above. Gagnon further teaches wherein the memory storage is a cache memory (i.e., SDP+ records various information that can use in the system, col. 30, lines 24-32).

Regarding claim 11, Gagnon in view of Quick, Jr. teaches all the limitations above. Gagnon further teaches wherein the memory storage is a look up table (col. 31, lines 17-25).

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-11 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-11 of copending Application No. 10/333,141. This is a



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provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a communication signal transmitted on a carrier wave, the signal comprising: a broadcast session portion; wherein the SDP provides information for processing the broadcast session; a session description protocol message (SDP message) "interleaved" with the broadcast session portion, wherein the SDP message provides information for processing the broadcast session. Deleting the word interleaved does not make a difference between the application and the co-pending application.

10. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, and 11 of U.S. Patent No. 6,909,702. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 is broader than claims of US Pat.

### ***Response to Arguments***

11. Applicant's arguments filed 11/04/05 have been fully considered but they are not persuasive.

As per claims 3 and 4, the Applicant argues with substance that Gagnon does not teach a communication signal transmitted on a carrier wave, the signal comprising: a broadcast session portion; wherein the SDP provides information for processing the broadcast session; a session description protocol message (SDP message) interleaved with the broadcast session portion, wherein the SDP message provides information for processing the broadcast session. However, the Examiner disagrees with the preceding assertion. Even though the claimed invention is directed to signal, which is not conveyed to a process, machine, manufacture, or composition of matter, the Examiner has provided a detailed rejection of the claim. It is clear that a broadcast session is read on Gagnon video and audio programming are packetized to broadcast to receivers, see paragraph 31 and paragraphs 83-88); a session description protocol message (SDP message) interleaved with the broadcast session, wherein the SDP message provides information for processing the broadcast session is read on Gagnon wherein the SDP + record are periodically broadcast by the transmission station, and processed by the receiver station clearly the SDP + records interleaved the broadcast file data (paragraphs 36 and 83-88). Therefore, the rejection is maintained.

As per claim 1, 2, and 5-11, the Applicant argues Gagnon does not teach the claimed limitations as recited in the argument above. Furthermore, Quick Jr. does not cure the deficiency of Gagnon. However, the Examiner disagrees with the preceding argument. Gagnon teaches all the limitations recited above Quick Jr. further teaches broadcasting system overhead information wherein the information is interleaved with paging and control and processing the message based on bandwidth demand. the

Examiner believes that the claims as presented are broad enough to read on Gagnon and Quick Jr. therefore, the rejection is maintained.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGelin  
January 2, 2006

**JEAN GELIN**  
**PRIMARY EXAMINER**  
*Jean Allard Gelin*